

Manitoba  
Office of the Commissioner  
Law Enforcement Review Agency (LERA)

**Annual Report  
2008**



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Office of the Commissioner  
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ATTORNEY GENERAL  
MINISTER OF JUSTICE

Room 194  
Legislative Building  
Winnipeg, Manitoba, CANADA  
R3C 0V8

The Honourable Philip S. Lee, C.M., O.M.  
Lieutenant-Governor of Manitoba  
Room 235 Legislative Building  
Winnipeg MB R3C 0V8

May it Please Your Honour:

It is my pleasure to present the *2008 Annual Report of the Law Enforcement Review Agency*.

This report details the agency's accomplishments and activities for the 12-month period ending December 31, 2008.

Respectfully submitted,

Honourable Andrew Swan





# Manitoba



**Justice**

**Law Enforcement Review Agency (LERA)**

**420 - 155 Carlton Street, Winnipeg Manitoba R3C 3H8**

**T 204 945-8667 F 204 948-1014**

**[www.gov.mb.ca/justice/lera](http://www.gov.mb.ca/justice/lera)**

The Honourable Andrew Swan  
Minister of Justice  
Attorney General

Dear Minister:

Pursuant to Section 45 of *The Law Enforcement Review Act*, I am pleased to present the Law Enforcement Review Agency's annual report for the period of January 1, 2008, to December 31, 2008.

Yours truly,

A handwritten signature in dark ink, appearing to read "G. V. Wright", written over a horizontal line.

George V. Wright  
Commissioner





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## INTRODUCTION

*The Law Enforcement Review Act* requires the commissioner to submit an annual report on the performance of his duties and functions to the minister and each municipality in the province with an established police service. The minister must table the report in the Legislature.

## LERA'S Mission Statement

The mission of the Law Enforcement Review Agency (LERA) is to deliver a judicious, timely, impartial, client-oriented service to the public and to the police services and police officers within its jurisdiction.

## About LERA

### What is LERA?

LERA is an independent, non-police agency, established under *The Law Enforcement Review Act* in 1985, to investigate public complaints about police.

LERA deals only with complaints about municipal or local police performance arising out of the performance of police duties. It does not investigate criminal matters.

### To whom does the Act apply?

The act applies to any peace officer employed by a Manitoba municipal or local police service, including police chiefs. It does not apply to members of the RCMP.

Complaints about members of the RCMP should be directed to the Commission for Public Complaints (CPC) against the RCMP, at [www.cpc-cpp.gc.ca](http://www.cpc-cpp.gc.ca) or by calling 1-800-665-6878 (toll free). LERA will forward complaints received about RCMP members to the CPC.

With the proclamation of *The Cross Border Policing Act*, *The Law Enforcement Review Act* applies to the conduct of police officers from other provinces or territories who have been appointed as police officers in Manitoba. Complaints involving police officers from outside of Manitoba's jurisdiction can result in recommendations by a judge, but no penalty can be imposed. The act also applies to the conduct of Manitoba police officers appointed as police officers in other provinces.

### What does LERA investigate?

LERA investigates allegations from the public that municipal or local police officers have committed any of the following actions:

- abuse of authority, including:
  - ❑ making an arrest without reasonable or probable grounds
  - ❑ using unnecessary violence or excessive force
  - ❑ using oppressive or abusive conduct or language
  - ❑ being discourteous or uncivil
  - ❑ seeking improper monetary or personal advantage
  - ❑ serving or executing documents in a civil process without authorization
  - ❑ differential treatment without reasonable cause on the basis of any characteristic set out in subsection 9(2) of *The Human Rights Code*

- making a false statement or destroying, concealing or altering any official document or record
- improperly disclosing any information acquired as a member of the police department
- failing to exercise discretion or restraint in the use and care of firearms
- damaging property or failing to report the damage
- failing to help where there is a clear danger to the safety of a person or property
- violating the privacy of any person under *The Privacy Act*
- breaching any part of *The Law Enforcement Review Act* that does not already specify a penalty for the violation
- helping, counselling or causing any police officer to commit officer misconduct

### **Who are complainants and respondents?**

A complainant is any person who feels wronged by the conduct or actions of a municipal police officer in Manitoba and files a complaint. Complainants may file on their own behalf or on behalf of another person. LERA must have written consent from that person before acting on the complaint.

A respondent is any police officer against whom a complaint has been filed by the public.

### **How is a complaint filed?**

A complaint must be made in writing and signed by the complainant. Date, time, location and other details of the incident are important and must be included. You may ask LERA staff or members of the local police service to help you prepare a complaint.

Written complaints may be sent directly to LERA, or given to a police chief or any member of a municipal or local police service. Police will forward the complaints to LERA.

### **Are there time limits?**

The Act requires a written complaint to be made within 30 days of the incident. The commissioner may extend that limit if there are valid reasons for being unable to make the complaint on time.

The commissioner may also extend the 30-day filing limit to avoid conflict with court proceedings or an ongoing criminal investigation involving a complainant.

### **How is a complaint investigated?**

LERA has professional investigators who interview witnesses, take statements and review reports such as official police records and medical reports. LERA investigators make all the inquiries they believe are necessary to uncover relevant evidence.

LERA may be contacted at any time to inquire about the status of a complaint. The commissioner remains open to discussion with all parties before making a final decision.

### **How are complaints screened?**

After an investigation, the commissioner will screen the complaint to decide if any further action should be taken. The act states the commissioner must do this. The commissioner will take no further action if any one of the following situations arise:

- the alleged conduct does not fall within the scope of misconduct covered by the act

- the complaint is frivolous or vexatious
- the complaint has been abandoned by the complainant
- there is not enough evidence to justify referring the complaint to a provincial judge for a public hearing

If the commissioner decides to close the complaint file and take no further action, the complainant will be notified in writing. The complainant will then have 30 days from the date of the decision to ask the commissioner to refer the matter to a provincial judge for review. Reviews are arranged by LERA and the Provincial Court at no cost to the complainant.

### **Does a complainant need a lawyer?**

Complainants do not require a lawyer when dealing with LERA. Complainants and the police are both entitled to legal representation during the process if they choose. However, they must arrange for such services themselves.

If complainants apply for legal aid and do not qualify, they may, in exceptional circumstances, make a request to the minister of justice to appoint a lawyer to represent them at a hearing. Counsel may be appointed by the minister, only where the applicant cannot afford to retain legal counsel.

Police officers are generally represented by a lawyer who is provided under their employment contract or collective agreement.

### **How are complaints resolved?**

The act provides several ways to resolve complaints. When the commissioner decides that there is sufficient evidence to justify referring the complaint to a provincial judge for a public hearing, *The Law Enforcement Review Act* provides several ways to resolve those complaints.

#### **Informal Resolution:**

The commissioner must try to resolve the complaint through informal mediation. Both the complainant and the police officer must agree to this process before it can take place. If the complaint is resolved informally, to the satisfaction of both complainant and respondent, no further action is taken and no record of the incident is made on the officer's service record.

#### **Admission of Disciplinary Default:**

A respondent officer can admit to the alleged officer misconduct. The commissioner then reviews the officer's service record and consults with the police chief before imposing a penalty.

#### **Referral to Judge for Hearing:**

If a complaint cannot be resolved informally, and there is no admission of misconduct by the police officer, the commissioner must refer the complaint to a provincial judge for a public hearing.

Penalties that may be imposed by the provincial judge on respondent officers under *The Law Enforcement Review Act* are:

- dismissal
- permission to resign, or summary dismissal if the resignation is not received within seven days
- reduction in rank
- suspension without pay for up to 30 days
- loss of pay for up to 10 days
- loss of leave or days off for up to 10 days
- a written reprimand
- a verbal reprimand
- an admonition

## **LERA as an Agency**

The Law Enforcement Review Agency (LERA) is an independent agency of Manitoba Justice, Criminal Justice Division, under *The Law Enforcement Review Act*.

The Lieutenant-Governor in Council charges the minister of justice, as a member of the executive council, with the administration of *The Law Enforcement Review Act*.

*The Law Enforcement Review Act* authorizes the Lieutenant-Governor in Council to appoint a commissioner.

The commissioner carries out investigations in compliance with *The Law Enforcement Review Act* and has powers of a commissioner under Part V of *The Manitoba Evidence Act*.

LERA is staffed by a commissioner, an administrative officer/registrar, four investigators and a clerk.

## **How To Reach the Law Enforcement Review Agency**

### **By Mail:**

420-155 Carlton Street  
Winnipeg MB R3C 3H8

### **By Phone:**

204-945-8667  
1-800-282-8069 (toll free)

### **By Fax:**

204-948-1014

### **By E-mail:**

[lera@gov.mb.ca](mailto:lera@gov.mb.ca)

### **Visit Our Website**

[www.gov.mb.ca/justice/lera](http://www.gov.mb.ca/justice/lera)

## **Website Overview – 2008**

LERA's website went online in September 2000. This site contains the following information:

- How to make a Complaint
- History
- Contact Us
- *The Law Enforcement Review Act* and Regulations
- Public Hearings and Reviews
- News Releases
- Annual Reports
- Links
- Site Map
- Disclaimer & Copyright

### **2008 Web Trends Report:**

Visitors.....4,393  
Pages viewed .....27,281  
Average pages viewed per day.....74  
Documents downloaded:

- Complaint Form.....655
- Annual Report .....4,889
- Decisions.....34,001

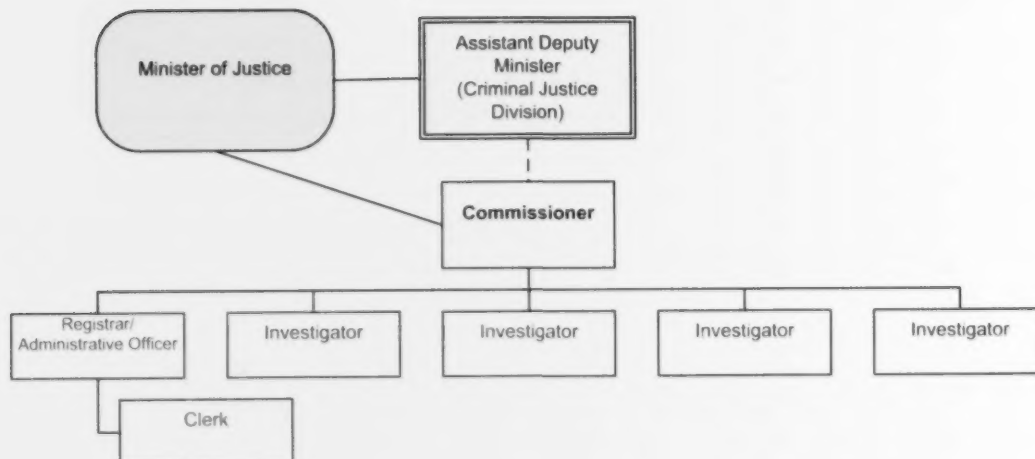
## LERA'S Organizational Structure

The commissioner is required to submit an annual report on the performance of his duties and functions to the minister and to each municipality in the province that has established a police service.

From an administrative perspective, the commissioner reports directly to Criminal Justice Division's assistant deputy minister.

LERA's budget for the financial year beginning April 1, 2008 and ending March 31, 2009 is:

Full Time Employees	7
	\$(000's)
Total Salaries	\$483.6
Total Operating Budget	<u>\$144.8</u>
<b>TOTAL</b>	<b>\$628.4</b>





## Activities

During the year, the commissioner and/or staff:

- attended a meeting with deputy minister of justice and attorney general, director of Aboriginal and Community Law Enforcement and representatives of the Inner City Safety Coalition
- participated in meetings with the assistant deputy minister of justice, Criminal Justice Division
- participated in meetings and discussions with police executives, police associations, members of police services and municipal officials
- attended reviews of the commissioner's decisions and public hearings presided over by a provincial judge acting *persona designate*
- attended appeal to the Court of Queen's Bench
- participated in Manitoba Bar Association Law Day open house at Manitoba Law Courts Complex
- made a presentation to Brandon Police Service members on *The Law Enforcement Review Act*
- attended graduation ceremonies for Winnipeg Police Service recruit classes
- attended Manitoba Organization and Staff Development training
- participated in various media interviews
- attended Winnipeg Police Service Training Academy video recording presentation
- attended Manitoba Organization and Staff Development Human Resource Policy Information Session
- presented to the Rural Municipality of East St. Paul Protection Committee on civilian oversight of law enforcement
- attended Manitoba Justice Human Resource information session on values and ethics, respectful workplace policy and *The Public Interest (Whistleblower Protection) Act*
- met with vice-chairperson of the Commission for Public Complaints Against the RCMP
- received the director of justice, Southern Chief's Organization
- attended Communication Services Manitoba media training seminar
- presented to the Portage la Prairie Friendship Centre on civilian oversight of law enforcement in conjunction with the Commission for Public Complaints Against the RCMP
- presented to members of the RCMP "D" Division Veterans' Association
- received senior corruption prevention officer of the Independent Commission Against Corruption, Sydney, New South Wales, Australia
- attended Manitoba Council of Administrative Tribunals Conference (MCAT)
- presented to Winnipeg Police Service recruit classes and a class of newly promoted sergeants on *The Law Enforcement Review Act*
- attended community forum on Police Governance-Best Practices hosted by the Inner-City Safety Coalition
- attended and participated in 2008 conference for the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE) in Regina, Saskatchewan
- received representatives from the Commission on Accreditation for Law Enforcement Agencies (CALEA)
- attended Fourth Annual Lecture by Supreme Court Justice Marshal Rothstein at Winnipeg's Prairie Theatre Exchange



- attended meeting with Provincial Civilian Oversight of Law Enforcement Agencies hosted by the Commission for Public Complaints (CPC) against the Royal Canadian Mounted Police, in Ottawa, Ontario, to explore ways and means for interagency co-operation
- attended conference planning meeting for the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE) hosted by the Military Police Complaints Commission, in Ottawa, Ontario
- attended a joint staff meeting hosted by the Winnipeg Police Service Professional Standards Unit
- met with the chief of the Winnipeg Police Service (WPS) and the inspector of the WPS Professional Standards Unit
- received representative of Flemington and Kensington Community Legal Centre Inc., Flemington, Australia
- met with the executive director of the Winnipeg Police Service Advisory Board
- presented to the Police Studies recruit class, Assiniboine Community College, Brandon
- hosted an open house in recognition of newly renovated LERA offices

## **Acknowledgements**

- members of the public who make their complaints and concerns known to LERA
- complainants and respondents who are able to resolve their differences by informal resolution
- chiefs of police of Manitoba's municipal police services
- police associations and members of Manitoba's municipal police services
- legal counsel and advocates assisting complainants and respondents
- Manitoba Justice officials for their assistance and expertise
- LERA's staff, whose competence and commitment are vital to LERA's success as a civilian oversight of law enforcement agency
- the province's Information Systems Branch for modification of LERA's computerized data system
- the many other stakeholders involved in the LERA process

## Case Summaries

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### Commissioner's Decision to Take No Further Action

*When LERA receives a complaint, the commissioner assigns an on-staff investigator to conduct an investigation into the complaint. When the investigation is completed, it is the commissioner's job to review the results of the investigation to determine whether to take no further action in cases where:*

- *the complaint is frivolous or vexatious*
- *the complaint is outside the scope of the disciplinary defaults listed in section 29 of The Law Enforcement Review Act (the act)*
- *there is insufficient evidence to justify referring the matter to a public hearing; or the complaint has been abandoned*

*In carrying out this duty, the commissioner performs an important gate-keeping function that ensures complaints with no chance of success do not make their way to a public hearing. This function is designed to ensure that the LERA process runs more smoothly and efficiently and to preserve the legitimacy of the LERA process with the public.*

Following are samples of cases in 2008 in which the commissioner decided no further action was required:

- A husband and wife went to a police station to discuss a traffic ticket that was issued to the wife. She was the registered owner of the vehicle. The police officer invited the couple into an interview room to discuss the matter. During the discussion, the husband continually interfered and was asked to leave the room. The husband alleged that the officer grabbed him forcefully and pushed him out of the room. The interview room is equipped with video surveillance that turns on with a motion sensor and was therefore recording the interview. The video showed the discussion and the officer getting up from the table and opening the door for the husband to leave. At no time did the officer touch the husband.

The commissioner said that the complaint was filed for an improper purpose, was therefore vexatious, and declined to take further action.

\* \* \* \*

- Police were flagged down to respond to a female who had been assaulted. The female was bruised and bleeding, upset and shaking. She was uncooperative, declined medical attention and would not provide any details. The female was counselled and told to contact police if the suspect returned. The officers were again called to the female's residence by a third party. The female was shaking and nervous but stated that everything was okay and that her spouse was not present. The officers could hear movement inside the bedroom area; entered the room and found her husband. The room was in disarray and blood was visible on a piece of furniture. The man was handcuffed and led to the police car. On his way out of the apartment the man was angry and swore at his wife. The man was confrontational with police. While he was in the holding room the man called out and when the officer went to see what the man wanted, the man rose from the chair and moved aggressively towards the officer with clenched fists. A scuffle took place and another officer entered to help. The man sustained some injuries. The man eventually stopped resisting and the officers handcuffed him to a bench. The man complained that the officers used excessive force and abusive conduct in dealing with him.

The commissioner said that there was insufficient evidence for a hearing and declined to take any further action on the file.

\* \* \* \*

- A couple's home was broken into and a few items were stolen. The man called police to come to his home. A follow-up investigation was to be handled by other officers. When the woman called the police the next day to get some information on the break-in at her home, she was told that there was no information to give. The officer indicated that he had already spoken to the other party involved, her boyfriend, and that there was no update on the file yet. The officers who responded to the original call had not yet filed their report. When the woman asked to speak to someone who had the information, she was told there was no one she could speak to. When she asked to leave a voicemail for the sergeant, she was told sergeants don't have voicemail. After going back and forth with the officer she was finally told to hold and the officer would find someone to talk to her. She was then disconnected. She called back and when she asked to speak to the same officer she was told he was busy. The woman restated the whole situation and again asked for an update. The officer told her that if she was told the matter would be followed up, then it would be. The woman felt she was treated very poorly.

The commissioner said that there was insufficient evidence for a hearing and declined to take any further action on the file.

\* \* \* \*

- Police were responding to a call about gunshots being fired into a house. The canine unit was sent out. After it was confirmed where the shots had landed, the dog unit began to track from the shooting location and ended up at a residence. The dog followed the scent right up to the door of the residence. Police dispatch was called and more officers went to the location. A computer check showed that there had been previous gun incidents at that address. Police attempted to contact the occupants of the residence by telephone and a loud hailer. There was no response. Officers noted movement in an upstairs window. Officers knocked loudly on the door and a woman answered the door. The officers informed the woman that they were entering her home to search for a gun and to ensure the safety of the occupants and the public. The woman's son came up from the basement and he was told he was being detained for investigation purposes and was handcuffed. The officers searched the residence but found no gun. They left after being in the residence for 10 or 15 minutes. The woman felt the officers should not have entered her home without a search warrant.

The commissioner said that there was insufficient evidence for a hearing and declined to take any further action on the file.

\* \* \* \*

- A male pedestrian was hit by a car. The man's mother found it unusual that no one from the police came to the hospital to discuss the accident with her son. The only information she and her son had about the accident was told to them by friends and was seen in the newspaper. The article said that charges were not going to be laid against the driver of the vehicle. The mother called the police to get some information. She asked for a meeting with the investigating officers, but the officer that met with her had little information. The officer said he would have the investigating officer call her. When the officer called the mother, she said he was yelling at her and being rude to her. He told her that he

would not answer her questions or meet with her to discuss the incident. Since the man involved in the accident was an adult and the investigating officer had spoken to him, the officer said he wasn't going to discuss it further with the mother. The woman complained that the officers were discourteous and uncivil.

The commissioner said that there was insufficient evidence for a hearing and declined to take any further action on the file.

\* \* \* \*

## Case Summaries

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### Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action

*When the commissioner declines to take further action on a complaint, the complainant may apply to the commissioner to have the decision reviewed by a provincial judge. Section 13(2) of the act says the commissioner must receive this application within 30 days after the date the decision was sent to the complainant.*

*Once the commissioner receives an application for a review, he sends it to the chief judge of the Provincial Court who assigns a judge to hold a review hearing. At the hearing, the judge must decide whether the commissioner erred in refusing to take further action on the complaint.*

Following are samples of these applications.

- A woman called the police to complain about a problem she was having with some individuals as well as telemarketers. The officer indicated to the woman that the police would not be investigating this matter and that perhaps the woman could find someone to help her with these problems. The woman claimed that the officer said she should see a doctor, although this allegation was denied by the officer. The woman made a complaint that the officer was arrogant, condescending and out of line.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The woman asked to have a provincial judge review the commissioner's decision.

*DECISION: The provincial judge held that the commissioner had not erred in declining to take further action on this complaint.*

\*\*\*\*

- The police were called to a fire next door to a man's house. The man and his family were outside watching the fire. Two police officers approached the man and asked to speak with the man's minor son. When asked why they wanted to speak to the son, the officers told the man that his son may have started the fire. The man said he couldn't have because he was sleeping at the time, but the man agreed that the officers could interview his son. During the interview the man repeatedly tried to intervene on behalf of his son and the man said the officers threatened him with obstruction of justice and referral to Child and Family Services. Because the man continued to interfere, he was asked to be quiet or leave. The man left, but felt the officers were rude to him when he tried to speak on his son's behalf. The officers also did not advise his son of his rights under the *Canadian Charter of Rights and Freedoms*.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The man asked to have a provincial judge review the commissioner's decision.

*DECISION: The man attended the review, but decided to withdraw his application. The file was closed by the judge.*

\*\*\*\*

- A woman reported a break-in to the police. The police arrived to find two men loading property into a truck. The police refused to treat the incident as a break-in when they discovered that it was the woman's landlord taking possession of the property. The woman and her spouse claimed that the landlord's possession order was invalid because he did not have an Order of Writ and therefore did not have the legal authority to enter the property. The officers agreed with the landlord and did not intervene. The woman made a claim that the officers failed to protect her property from being stolen.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The woman asked to have a provincial judge review the commissioner's decision.

*DECISION: The woman failed to attend the review, and the judge dismissed her application.*

\*\*\*\*

- Two male youths were running away from two people they later realized were the police. The police chased the two youths who were involved in a gas station robbery. The police yelled for them to stop. After a warning from police, they kept running. The police released a police dog to help with the chase. The dog grabbed one of the youths by the leg. When the officer was sure the youth had no weapons in his hands, the officer ordered the dog to release him. The dog did so. The youth said that the dog did not release him on the first command and that the officer punched him and slammed him into the hood of the car where his lip was cut open.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The youth's mother asked to have a provincial judge review the commissioner's decision.

*DECISION: The youth's mother contacted the court by letter indicating that the youth did not want to proceed with the review. The judge dismissed his application.*

\*\*\*\*

- A man and his girlfriend were outside a restaurant. The police approached and asked him to come to the back of the marked police vehicle. The man reached into his pocket to show the officers that his pockets were empty. The officer told him to take his hands out of his pockets. The officers then saw the man put a baggie of marijuana in his mouth. They grabbed the man to prevent him from swallowing the baggie. The officers forced the man to the ground. While trying to get the baggie out of the man's mouth, the man bit one of the officers. The man told the officers he hadn't done anything and he was told to keep his mouth shut. The man said the officers punched him in the head and then on the back. The man was belligerent and was fighting with the officers while they were trying to place him under arrest.

The commissioner closed the file because the man failed to respond to several attempts to contact him. It was the commissioner's view that the man had abandoned his complaint. The man asked to have a provincial judge review the commissioner's decision.

*DECISION: The man withdrew his application for review, through his lawyer, before the matter was heard. The judge closed the file.*

\*\*\*\*



## Case Summaries

---

### Informal Resolution of Complaints

*Under Section 15 of the act, the commissioner provides the complainant and respondent with an opportunity to informally resolve the complaint. The process is often, but not always, successful. To be successful, the process must satisfy each of the parties involved. There is no single model for informal resolutions. They can range from a simple explanation of a police officer's action or a discussion to clear up a misunderstanding, to an apology or reimbursement for damages caused in the incident.*

Following are examples of complaints resolved informally in 2008:

- A woman and her boyfriend had a fight and the woman was physically assaulted. The woman called her mother to come and get her. When the mother arrived from out of town, they went to the police station to report the incident.

The woman also informed the police officer that there was an out-of-province warrant for her arrest. The officer checked the information on the computer and confirmed this. The officer told the woman that the local police have no jurisdiction to enforce the out-of-province warrant, so nothing could be done about that. The woman tried to report the assault but the officer was not interested in dealing with the situation and told the woman that the police were busy and it would be four or five hours before an officer could talk to her. The officer then told the woman and her mother that they should just go back to the mother's home, which was in another province, and file the charges there.

The woman and her mother left and drove to the city where her mother lives. They went to the police station to report the incident. They discovered that they could not file charges in a province other than where the incident had occurred. They then had to drive all the way back to file the charges. The mother called the police station first to confirm that this should be done and was informed that they should come right back especially since a weapon was involved. When the mother indicated she wanted to file a complaint about the first officer sending them to another province, the officer said the first officer made a mistake.

When the woman spoke to officers about the incident, one of them rolled his eyes at the woman as though he thought she was lying.

*The complaint was resolved informally with the woman being reimbursed for the extra travelling expenses.*

\*\*\*\*

- A woman was at a bar with some friends. The bartender had a confrontation with the woman's friends. The woman calmed the situation down and the bartender indicated that they could remain at the bar. The woman and her friends were playing pool when the police showed up and asked everyone to leave. The woman asked the police why they were being kicked out. The officer repeated that they had to leave. The woman went to get her belongings and the officer yelled at her to put her drink down and leave. She indicated that she was just getting her things. The officer grabbed her by the arm and dragged her out of the bar. She was not allowed to get her jacket and she ending up losing a shoe on the way to the police car.

The officers took her to the drunk tank. They would not tell her why she was hauled out of the bar and would not answer any of her questions.



The woman said she was arrested without grounds and the officers were abusive and rude to her.

*The complaint was resolved informally with a meeting between the woman and the officers involved.*

\*\*\*\*\*

- A man was walking home from a local business and saw four youths being arrested. He stopped to watch and began talking to the person beside him. An officer yelled for the man to come over. He did, and asked why he was being stopped. The man had been identified by one of the youth as part of their group. The officer asked the man to get on the ground and the man refused. They scuffled while the officer was trying to put handcuffs on him. The man ended up with some cuts, scrapes and a ripped jacket. The man was put in a police car and was eventually taken to the police station. After his identity was confirmed and a check of his record was completed, he was released without being charged and was driven home.

The man said he was arrested without grounds and the officers used excessive force and abusive conduct.

*The complaint was resolved informally with a meeting between the man and the officers involved.*

\*\*\*\*\*

- A man was in the lobby of his apartment building. He saw two uniformed officers approach the locked door. One officer yelled for the man to open the door. Since it did not appear to be an emergency, the man felt the officers should have looked at the control panel to see how access to the building was to be gained and he gestured for them to look at the key pad. The officer then yelled and said that the man would be arrested if he didn't unlock the door. The man turned his back and walked to the elevator. The man tried to report the incident to the police over the phone and did not get anywhere. He went to the local police station and did not receive any satisfaction.

The man said the officers were using their uniforms to intimidate him.

*The complaint was resolved informally by the commissioner writing to the chief of police informing him of the complaint and asking that the officers be notified of the complainant's dissatisfaction with the way they handled themselves.*

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## Case Summaries

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### Public Hearings Before a Provincial Judge

*Public hearings under the act are held before provincial judges. They do not sit in their usual capacity as members of the Provincial Court. A public hearing is only held after a matter has been referred by the commissioner under Section 17 of the act.*

*Where a public hearing has been referred by the commissioner, section 27(2) of the act states:*

*"The provincial judge hearing the matter shall dismiss a complaint in respect of an alleged disciplinary default unless he or she is satisfied on clear and convincing evidence that the respondent has committed the disciplinary default."*

*The "clear and convincing evidence" standard was added to the act in 1992. It is not worded the same as the more traditional standards that are used in other contexts. In criminal cases, the standard is "beyond a reasonable doubt," which was used in the act until 1992. In civil cases, the standard is "balance of probabilities." Provincial judges have held that the "clear and convincing evidence" standard falls between the civil and criminal standards of proof.*

*Following are the results of public hearings on the merits of complaints heard in 2008:*

- A young woman was arrested for breaching probation. She was forced to walk to the police car without shoes or a jacket. The temperature was below freezing. The young woman also said that the officers spoke in an abusive manner and called her names.

Officer Misconduct: two police officers

Allegations: Abuse of authority by using oppressive or abusive conduct or language.

Disposition: *The complainant did not attend the hearing and the judge dismissed the complaint.*

\*\*\*\*

- A man was at a bus stop with his mother and infant son. A police officer drove by and the man made a gesture. The police officer stopped and asked what the man wanted. A confrontation took place and the man said the officer used words of a discriminatory nature.

Officer Misconduct: one police officer

Allegations: Abuse of authority by using differential treatment without reasonable cause on the basis of any characteristic set out in subsection 9(2) of *The Human Rights Code*.

Disposition: *Before a hearing date was set, the complainant contacted the Provincial Court and said he no longer wished to proceed with this matter. The file was closed by the judge.*

\*\*\*\*

- Police went to a house where a party was taking place. While the owner of the house was talking to police, a guest at the party went into the house. The police then entered the house to look for the person who had just gone inside. The officers asked the guest to leave, but he refused. He was told that if he didn't leave, the police would detain him under *The Intoxicated Persons Detention Act*. The man refused to leave and was handcuffed. The man and a witness said he was thrown down the stairs and landed on the concrete patio. The man also said that excessive force was used while taking him to the police car. The man was taken to the drunk tank and then for medical attention.

Officer Misconduct: one police officer

Allegations: Abuse of authority by using excessive and unnecessary force and oppressive or abusive conduct or language.

*Disposition: The complainant did not come to the hearing and the judge dismissed the complaint.*

\* \* \* \*

- A man was riding his bicycle home. As he approached, he noticed a police car parked on the sidewalk and a police officer talking to someone. The man continued on his way to a local business. After realizing he forgot something, he turned around and headed back to his home. As he passed the police officer, he mumbled a comment under his breath. As he continued on, he heard yelling from behind him and turned to see the officer running towards him. The officer confronted the man asking what he had said. At first, the man said nothing but after several demands, the man repeated his comment. The man asked for the officer's badge number and the officer said he was going to give him a ticket. The officer grabbed a bag that the man was carrying but the man would not release it and said the officer had no right to look inside the bag. The officer asked the man for identification and the man said he had left it at home. The officer held the man's bicycle and allowed the man to go and get his identification. While the man was in his home he called his lawyer. The lawyer advised him not to go back outside but the man did and took the phone with him. The man showed the officer his identification and the officer demanded that the phone be hung up. The lawyer on the phone asked to talk to the officer and very shortly the call was terminated. The officer told the man to wait while he went to his police car. While the officer was at his car, a woman came out of an apartment and asked for help. When the officer returned from helping the woman, he attempted to give the man a ticket but didn't have any with him. A short time later, another police car arrived and delivered something to the officer. The officer then issued a ticket to the man.

Officer Misconduct: one police officer

Allegations: Abuse of authority by using oppressive or abusive conduct or language.

*Disposition: The judge found that there was not clear and convincing evidence to satisfy him that the officer acted in an abusive or oppressive manner and dismissed the matter.*

\* \* \* \*

- A youth in a car was stopped by police. He got out of the car and ran. The police chased and caught him. The youth said he was hit with a baton and punched in the back seat of the police car, while handcuffed. He said an officer threatened to take him to the highway and beat him up and leave him there. As he was getting out of the police car at the police station, the youth's foot got stuck and he was dragged out of the vehicle. The youth said the officers continued to hit him and threaten him at the police station.

The youth was in possession of a cellular telephone that did not belong to him. At the police station, a telephone number was accidentally dialled before the telephone was taken from the youth. The person receiving the call was able to confirm hearing some of the events described by the youth.

Officer Misconduct: one police officer

Allegations: Abuse of authority by using unnecessary violence or excessive force, by using oppressive or abusive conduct or language and by damaging property or failing to report the damage.

*Disposition: The complainant, through his lawyer, withdrew his complaint before the hearing. The judge closed the file.*

\* \* \* \*

- A youth was riding a dirt bike on a residential street and was approached by a man. The man asked for his licence and the youth asked why. The man showed the youth his police officer's badge. The youth said he didn't have his licence with him, it was at home. The officer told the youth to put his hands behind his head and then searched him. The officer said he could fine the youth and have his licence suspended. The youth said that the officer then started talking on the phone and when the youth said he had to leave, the officer grabbed him. Witnesses say they saw the officer punching the youth and throwing him to the ground. The officer then put the youth in the back of his car and took him to a nearby police station where he was issued traffic tickets.

Officer Misconduct: one police officer

Allegations: Abuse of authority by using unnecessary violence or excessive force, by using oppressive or abusive conduct or language.

*Disposition: The complainant did not respond to letters from the court to set a hearing date. The matter was put on a docket and the judge dismissed the complaint.*

\* \* \* \*

- A woman was sitting outside her home with one of her sons. Two police officers approached and after trying to confirm the woman's identity as the mother of a person they were looking for, asked the woman where her other son was. The woman indicated that she didn't know. The woman stated that the officers were verbally abusive and one officer shoved her. The officers stated that the woman became irate and was yelling at one officer with a very small distance between them. The woman was asked to move back, but instead moved closer. The officer put up an arm to stop more forward motion by the woman

Officer Misconduct: two police officers

Allegations: Abuse of authority by using unnecessary violence or excessive force, by using oppressive or abusive conduct or language and by being discourteous or uncivil.

*Disposition: The complainant did not respond to letters from the court to set a hearing date. The matter was put on a docket and the judge dismissed the complaint.*

\* \* \* \*

- Five police officers went to a woman's apartment. The woman opened her door and was asked to confirm her identity and she did. They asked if a certain man was at her apartment and she said that he did not live there. The officers asked to come in. The woman indicated that she had no problem, but she asked if they had a warrant. The officers entered the apartment and she again said that they needed a warrant to come in. The officers were continuously asking questions about the person they were looking for, who is the father of her son. She said she had not heard from him for a long time. The officers began looking through her closet and the woman again told them that they needed a warrant, but the officers said they didn't. The woman asked the officers to leave and to give her their badge numbers. They would not give their badge numbers, however, one officer gave her a business card and then they left.

Officer Misconduct: three police officers

Allegations: Abuse of authority by conducting an illegal search, using oppressive or abusive conduct or language and by being discourteous or uncivil towards the complainant.

*Disposition: The complainant did not respond to letters from the court to set a hearing date. The matter was put on a docket and the judge dismissed the complaint.*

\*\*\*\*\*

- A woman was given a legal document by her roommate who had received it from the woman's next door neighbour. The neighbour had received the document from a police officer who had tried to deliver it to the woman herself. Because the woman was not home and the neighbour told the officer that he was familiar with the situation, the officer gave the neighbour the document to pass on to the woman. The document was not sealed or safeguarded and its contents, including personal information about the woman's younger brother, were visible. The woman said the officer should have returned later to serve the document or should have taken steps to protect the information that the document disclosed.

Officer Misconduct: one police officer

Allegations: Abuse of authority by improperly disclosing information acquired as a member of a police department.

*Disposition: The complainant did not respond to letters from the court to set a hearing date. The matter was put on a docket and the judge dismissed the complaint.*

\*\*\*\*\*

- A man was driving a stolen vehicle. The vehicle hit a curb, the tire popped and the man and his friend got out of the car and started running. A police car hit the driver from behind. The police then got out of their vehicle and arrested the two individuals. The police said the man ran into the path of the police car as the police were attempting to contain the stolen vehicle. The man said the police stepped on his leg and that he was kicked in the back of the head during the arrest.

Officer Misconduct: four police officers

Allegations: Abuse of authority by using oppressive or abusive conduct or language.

*Disposition: Before a hearing date was set, the complainant passed away. The complainant's brother contacted the court to pursue the matter on his brother's behalf. A pre-hearing was scheduled but the complainant's brother did not show up. The judge dismissed the complaint.*

\* \* \* \*

- Police went to a home with a search warrant for stolen weapons. When they arrived, they ordered a man, woman and their nine-year-old son to come out of the house, one at a time, with their hands over their heads. The man was handcuffed and placed into a police car. The woman and her son were put into another police car, without handcuffs. While the officers were searching the house, one officer's handgun accidentally discharged causing damage to the house. During the time the family was detained, the woman was never advised of her rights or allowed the opportunity to call a lawyer.

Officer Misconduct: six police officers

Allegations: Abuse of authority by failing to inform the complainant of the reason for detention, failing to inform of the right to retain and instruct counsel without delay, by using oppressive or abusive conduct or language, by being discourteous or uncivil to the complainant and by failing to exercise discretion or restraint in the use and care of a firearm.

*Disposition: This case was originally heard in 2006 where the judge found two officers guilty of misconduct and dismissed the defaults against the other four officers. The case was adjourned for a penalty hearing. The penalty hearing took place in 2007. The judge directed that the senior officer be given a written reprimand and that the other officer be given an admonition. The judge ordered that the chief of police impose the penalties directed by him. The chief of police has complied with the judge's order.*

*The respondent officers appealed the penalty imposed and the judge hearing the appeal found that the respondents' behaviour did not amount to an abuse of authority and set aside the previous decision. The complaint was dismissed.*

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## **Legal Developments**

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### **Court of Queen's Bench Appeal**

The Court of Queen's Bench heard an appeal from a finding of disciplinary default by a provincial judge.

Police went to a home with a search warrant for stolen weapons. When they arrived, they ordered a man, woman and their nine-year-old son to come out of the house, one at a time, with their hands over their heads. The man was handcuffed and placed in a police car. The woman and her son were put into another police car, without handcuffs. While the officers were searching the house, one officer's handgun accidentally discharged causing damage to the house. During the time the family was detained, the woman was never advised of her rights or allowed the opportunity to call a lawyer.

The case was originally heard by the provincial judge in 2006. The provincial judge found two officers guilty of misconduct for failure to inform the complainant of the reason for detention, failing to inform of the right to retain and instruct counsel without delay. The case was adjourned for a penalty hearing. The penalty hearing took place in 2007. The judge directed that the senior officer be given a written reprimand and that the other officer be given an admonition.

On Appeal to the Court of Queen's Bench, the court found that the respondents did fail to advise the complainant of her right to counsel. However, the court held that this omission, on its own, does not necessarily constitute an abuse of authority. The court decided that the facts did not support a finding that the respondents abused their authority.

Commissioner's comment: This case highlighted the need for officers to understand when people must be advised of their charter rights. Even if officers do not intend to arrest someone, the obligation to advise of charter rights arises when a person is detained.

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### **Detention and the Right to Counsel**

A concern the commissioner has encountered on a number of occasions is failure by officers to advise a detained person of his or her right to counsel. This issue was addressed recently by the Court of Queen's Bench in LERA File 6180 (see p. 28 of this report for a summary of the case). The court was clear that the obligation to advise a person of his or her right to counsel does not just arise where a person is a suspect. The court stated:

<The officer in charge> advised that he did not advise <the complainant> of her Charter rights because one, in his opinion, she was not detained, although she clearly was and two, she was not a suspect. I agree that <the officer in charge> should have advised her of her Charter rights because she clearly was detained, even if she wasn't a suspect.

It is apparent that officers can misunderstand their duty to advise a person of the right to counsel. If a person is never charged with an offence, the breach of his or her rights may never come to light, even though it is a serious breach. The commissioner recommends that the heads of police forces throughout Manitoba ensure all their officers are aware of this obligation and when it applies.

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## **Contributing Causes**

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Section 22 of *The Law Enforcement Review Act* states:

*"When the commissioner identifies organizational or administrative practices of a police department which may have caused or contributed to an alleged disciplinary default, the commissioner may recommend appropriate changes to the chief of police and to the municipal authority which governs the police department."*

### **Recommended changes follow:**

A police officer saw a youth in an area he believed the youth was prohibited from by court order. The officer approached and spoke to the youth about it. The youth told the officer that the matter had been dealt with and was no longer an issue. The officer returned to his office to check the local police records. The data showed that the order was still in effect. The officer then checked a federal database and saw that the order was no longer in effect and had not been in effect for six months.

The commissioner felt that the matter could have been avoided if the police agency's records were updated in a timely fashion. The commissioner wrote to the chief of the police agency and suggested that process for updating their records be reviewed.

The police chief wrote back to the commissioner and indicated that they had reviewed the situation; and because this was an isolated incident, no changes to their record keeping system were required.

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## Statistical Analysis

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- LERA's jurisdiction extends to 13 police services with 1,482 police officers. Total population served is 735,829.
- Winnipeg Police Service accounts for 89 per cent of complaints made to LERA. Brandon Police Service accounts for 6 per cent and other forces account for the remainder.
- There were 252 files opened in 2008, a decrease of 56 complaints compared to 2007. The 5-year average is 334.
- The 155 formal complaints filed are the lowest recorded in the past 5 years. Despite this fact, the figure remains substantially higher than the number of files for which formal complaints were never received or files that were closed after preliminary investigation (97 complaints).
- In 2007, there were 422 total investigations. In 2008, there were 367 investigations, a decrease of 55. There was a slight increase in the number of investigations completed in 2008, up 6 to 214 files in 2008.
- A contributing factor for the drop in the number of complaints can be attributed to restructuring in the Winnipeg Police Service in 2008. Calls waiting for dispatch have greatly decreased, allowing officers more time to deal with each call.
- There has been a dramatic drop in allegations of disciplinary defaults in all five main categories: abuse of authority, arrest without reasonable or probable grounds, using unnecessary or excessive force, and being discourteous or uncivil. Statistical scoring of defaults is now completed by one person, providing greater consistency in reporting. The drop is also partly consistent with the overall drop in complaints for the year.
- There was one complaint alleging the misuse of pepper spray in 2008. However, there were eight complaints of misuse of the taser.
- There were 17 incidents alleging misuse of handcuffs in 2008, 9 less than in 2007.
- Incidents alleging injuries from the use of force dropped to 79 and were made in 51 per cent of complaints investigated.
- There were four informal resolutions of complaints in 2008 down from 2007. LERA continues to actively support and, whenever possible, engage in alternative dispute resolution to restore social harmony between the affected parties. This method of complaint resolution remains a priority and complainants and respondents are encouraged to use it.
- Table 9: The percentage of complaints abandoned by complainants increased over last year. LERA investigators contact complainants after the investigation is completed but before a final letter is written. In many cases, when complainants see the results of the investigation, they then decide to drop the complaint. In other cases, when a LERA investigator is unable to locate the complainant, a letter is sent to the complainant's last known address asking the complainant to contact the investigator. If contact is not made within 30 days, the complaint is considered abandoned and a registered letter is sent to that effect.
- Table 11: Complainants' requests for judges to review the commissioner's decision increased from 16 to 21 in 2008. The 5-year average is 13.
- Tables 12 and 13: LERA is not mandated to conduct criminal investigations. When a case before the commissioner or a provincial judge shows evidence that a member may have committed a

criminal offence, the commissioner or provincial judge report it to the attorney general. There is a significant drop in the number of criminal investigations requested by complainants.

- If there is an implication of criminal misconduct, LERA investigators will inform the complainant that a criminal complaint may also be made to the police force where the incident occurred. In 2008, 9 criminal complaints were made where a LERA complaint was also filed. This is 11, less than in 2007.
- Tables 15 and 16: During a criminal investigation against an officer or a complainant, the LERA investigation is put on hold. These criminal investigations and related court appearances often take many months or even years to get through the judicial system. This is beyond the control of LERA, but it adds greatly to the length of time needed to complete investigations.

Although the length of time to complete investigations increased from 11 months in 2007 to 13 months in 2008, 69 per cent of the files closed in 2008 were closed within 8 months. A contributing factor in the length of time to close files was the high number of files that were opened in 2004

## 2008 Statistical Report – Data Tables

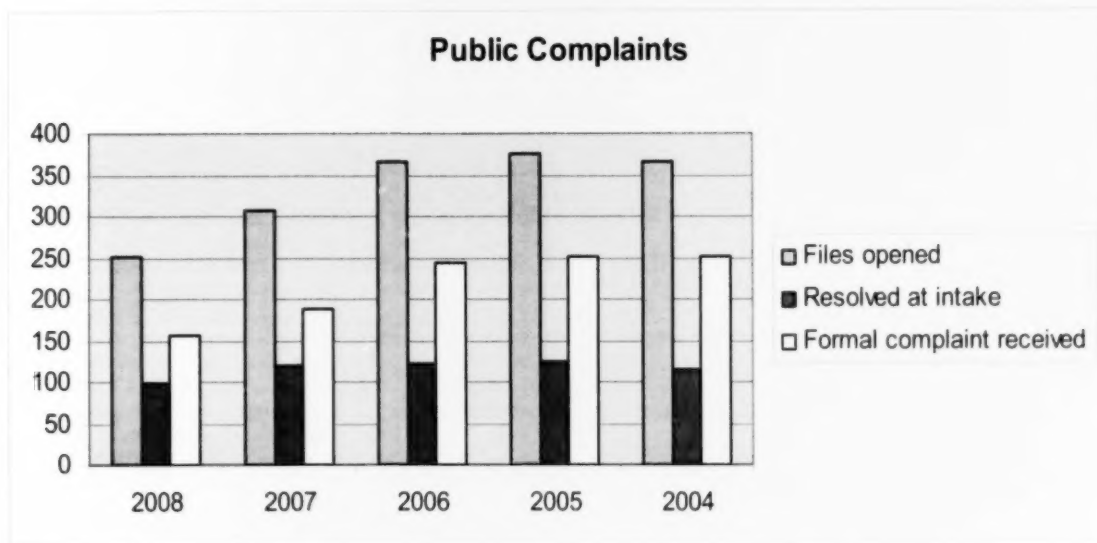
<b>Table 1: Complaints – Listed by Police Service</b>	<b>Police Officers **</b>	<b>Population ***</b>	<b>2008 (n=155)</b>	<b>2007 (n=188)</b>	<b>2006 (n=244)</b>	<b>2005 (n=251)</b>	<b>2004 (n=252)</b>
Altona	7	3,709	0	0	0	0	0
Brandon	80	41,511	9 (6%)	13 (7%)	23 (9%)	19 (7.2%)	14 (6%)
Dakota Ojibway (DOPS)	29	11,183	4 (2.6%)	3 (1.6%)	4 (1.6%)	5 (2.0%)	2 (.8%)
RM of East St. Paul	8	8,733	0	2 (1%)	7 (3%)	2 (1%)	1 (.4%)
Morden	13	6,571	0	2 (1%)	0	0	0
Rivers	3	1,193	0	0	1 (0.4%)	1 (0.4%)	0
Ste. Anne	4	1,534	2 (1.3%)	2 (1%)	0	0	1 (.4%)
Winkler	15	9,106	1 (.6%)	3 (1.6%)	0	0	2 (.8%)
Winnipeg	1318	633,451	138 (89%)	161 (86%)	207 (85%)	223 (89%)	228 (90%)
RM of Cornwallis*	1	4,058	1 (.6%)	0	0	0	0
RM of Springfield*	2	12,990	0	0	0	0	0
RM of Victoria Beach*	1	388	0	1 (.5%)	1 (0.4%)	0	1 (.4%)
RM of Whitehead*	1	1,402	0	1 (.5%)	0	0	2 (.8%)
Other	0	0	0	0	1 (0.4%)	1 (0.4%)	1 (.4%)
<b>Total</b>	<b>1482</b>	<b>735,829</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

\* Supplementary police service – RCMP have primary responsibility

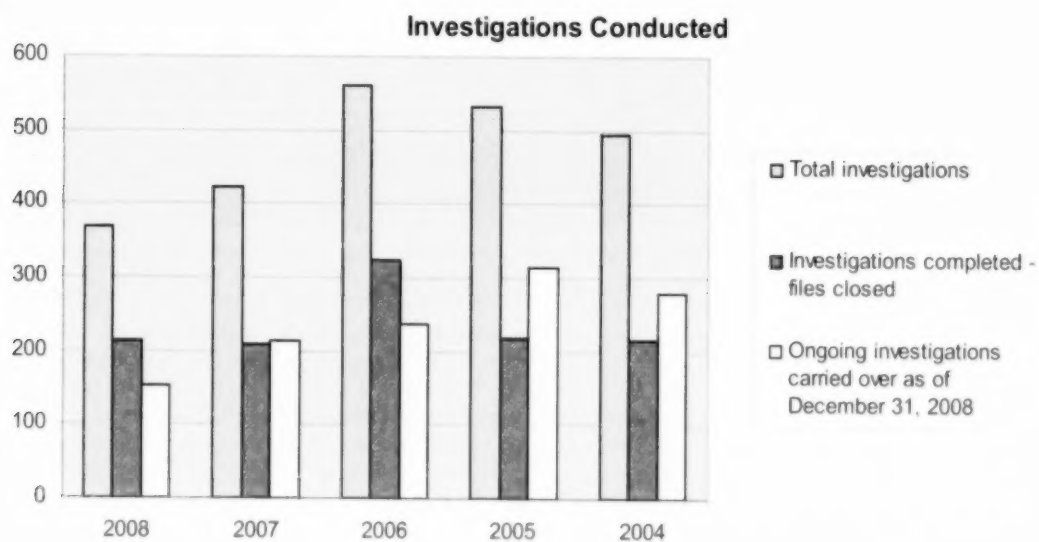
\*\* Source: Director, Aboriginal and Community Law Enforcement, Manitoba Justice

\*\*\* Source: Statistics Canada and Dakota Ojibway Police Commission

<b>Table 2: Public Complaints</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>
<b>Files opened</b>	252	308	367	375	367
<b>Resolved at intake</b>	97	120	123	124	115
<b>Formal complaint received</b>	155	188	244	251	252



<b>Table 3: Investigations Conducted</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>
<b>Total investigations</b>	367	422	560	532	495
<b>Investigations completed - files closed</b>	214	208	324	217	216
<b>Ongoing investigations carried over as of December 31, 2008</b>	153	214	236	315	279



<b>Table 4: Complainants' Allegations: Discipline Code Section 29 <i>The Law Enforcement Review Act</i></b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>
Abuse of authority Subsection 29(a)	49	67	112	109	114
Arrest without reasonable or probable grounds Subsection 29(a)(i)	17	25	64	16	24
Using unnecessary or excessive force Subsection 29(a)(ii)	88	106	157	130	149
Using oppressive or abusive conduct or language Subsection 29(a)(iii)	79	88	123	145	125
Being discourteous or uncivil Subsection 29 (a)(iv)	35	56	86	79	77
Seeking improper personal advantage Subsection 29(a)(v)	0	0	1	0	1
Serving civil documents without proper authorization Subsection 29(a)(vi)	0	2	1	1	1
Differential treatment without cause Subsection 29(a)(vii) <i>The Human Rights Code</i> Subsection 9(2)	14	14	32	23	21
Making false statement(s) Subsection 29(b)	2	5	15	11	14
Improperly disclosing information Subsection 29(c)	6	4	2	4	4
Failing to exercise care or restraint in use of firearm Subsection 29(d)	3	0	3	5	0
Damaging property or failing to report damage Subsection 29(e)	9	7	4	7	5
Failing to provide assistance to person(s) in danger Subsection 29(f)	2	2	13	8	4
Violating person's privacy (under <i>The Privacy Act</i> ) Subsection 29(g)	0	1	2	1	0
Contravening <i>The Law Enforcement Review Act</i> Subsection 29(h)	0	1	1	0	1
Assisting any person committing a disciplinary default Subsection 29(i)	1	3	0	0	0

**Table 5: Incidents Alleging Misuse of Pepper Spray**

<b>2008 (n=1)</b>	<b>2007 (n=1)</b>	<b>2006 (n=4)</b>	<b>2005 (n=1)</b>
1% of 155 complaints investigated Brandon PS - 1	1% of 188 complaints investigated Dakota Ojibway PS = 1	2% of 244 complaints investigated Winnipeg = 3	0.4% of 251 complaints investigated Winnipeg = 1

**Table 6: Incidents Alleging Misuse of Handcuffs**

<b>2008 (n=17)</b>	<b>2007 (n=26)</b>	<b>2006 (n=25)</b>	<b>2005 (n=31)</b>
11% of 155 complaints investigated  Winnipeg PS = 17	14% of 188 complaints investigated  Winnipeg PS = 26	10% of 244 complaints investigated  Winnipeg PS = 23 East St. Paul PD = 1 Dakota Ojibway PS = 1	12% of 251 complaints investigated  Winnipeg PS = 30 Brandon PS = 1

**Table 7: Incidents Alleging Misuse of Taser**

<b>2008 (n=8)</b>	<b>2007 (n=11)</b>	<b>2006 (n=1)</b>	<b>2005 (n=0)</b>
5% of 155 complaints investigated  Winnipeg PS = 6 Dakota Ojibway PS = 1 Brandon PS = 1	6% of 188 complaints investigated  Winnipeg PS = 9 Winkler PS = 1 Victoria Beach PS = 1	.4% of 244 complaints investigated  Brandon PS = 1	N/A

**Table 8: Incidents Alleging Injuries from Use of Force**

<b>2008 (n=79)</b>	<b>2007 (n=93)</b>	<b>2006 (n=120)</b>	<b>2005 (n=113)</b>
51% of 155 complaints investigated  Winnipeg PS = 76 Brandon PS = 2 Dakota Ojibway PS = 1	49% of 188 complaints investigated  Winnipeg PS = 86 Dakota Ojibway PS = 3 Brandon PS = 1 Winkler PS = 1 Victoria Beach PS = 1 Ste. Anne PD = 1	49% of 244 complaints investigated  Winnipeg PS = 114 Brandon PS = 2 Dakota Ojibway PS = 2 East St. Paul PD = 2	45% of 251 complaints investigated  Winnipeg PS = 104 Brandon PS = 2 Dakota Ojibway PS = 3 East St. Paul PD = 1

<b>Table 9: Disposition of Complaints</b>	<b>2008 (n=216)</b>	<b>2007 (n=208)</b>	<b>2006 (n=324)</b>	<b>2005 (n=217)</b>	<b>2004 (n=216)</b>
Dismissed by commissioner as outside scope of act	6 (3%)	12 (6%)	41 (13%)	40 (18%)	22 (10%)
Dismissed by commissioner as frivolous or vexatious	5 (2%)	2 (1%)	6 (2%)	2 (1%)	1 (0.5%)
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	92 (43%)	90 (43%)	92 (28%)	53 (24%)	56 (26%)
Abandoned or withdrawn by complainant	104 (49%)	91 (44%)	163 (50%)	103 (47%)	117 (54%)
Resolved informally	4 (1%)	8 (4%)	5 (2%)	4 (2%)	5 (2%)
Public hearing before a provincial court judge	5 (2%)	6 (3%)	16 (5%)	15 (7%)	15 (7%)
Admission of guilt by respondent officer	0	0	1 (0.3%)	0	0
Disposed via criminal procedure	0	0	N/A	N/A	N/A



<b>Table 10: Legal Involvement of Complainants</b>	<b>2008 (n=155)</b>	<b>2007 (n=188)</b>	<b>2006 (n=244)</b>	<b>2005 (n=251)</b>	<b>2004 (n=252)</b>
<b>No charges</b>	53 (34%)	76 (40%)	101 (41%)	112 (45%)	83 (33%)
<b>Traffic offences</b>	12 (8%)	13 (7%)	28 (11%)	11 (4%)	23 (9%)
<b>Property offences</b>	10 (6%)	12 (6%)	17 (7%)	25 (10%)	47 (19%)
<b>Intoxicated persons detention</b>	9 (6%)	11 (6%)	8 (3%)	13 (5%)	14 (6%)
<b>Cause disturbance</b>	1 (0.6%)	3 (2%)	3 (1%)	1 (0.4%)	2 (0.8%)
<b>Assault police officer/resist arrest</b>	23 (15%)	25 (13%)	30 (12%)	31 (12%)	23 (9%)
<b>Impaired driving</b>	3 (2%)	4 (2%)	3 (1%)	1 (0.4%)	5 (2%)
<b>Offences against another person</b>	23 (15%)	17 (9%)	27 (11%)	24 (10%)	18 (7%)
<b>Domestic disputes</b>	1 (0.6%)	2 (1%)	1 (0.4%)	3 (1%)	9 (4%)
<b>Drugs</b>	5 (3%)	N/A	N/A	N/A	N/A
<b>Other</b>	15 (10%)	25 (13%)	26 (11%)	30 (12%)	28 (11%)

<b>Table 11: Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>
	21	16	5	11	12

<b>Table 12: Referrals of Complaint to Crown for Criminal Investigation</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>
	0	0	1	0	0

<b>Table 13: LERA Complaints Where Complainant Lodged a Criminal Complaint with Police</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>	<b>2004</b>
	9	20	21	27	11

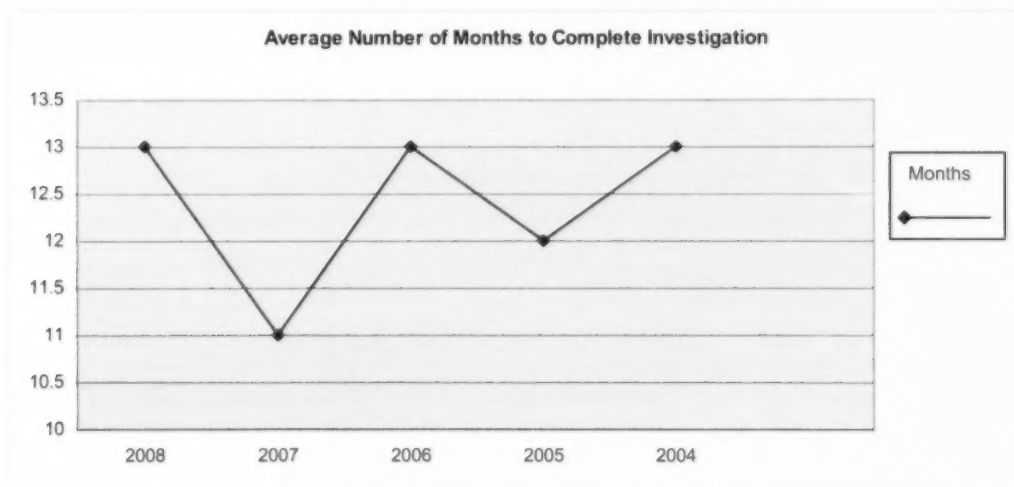
**Table 14: Time Span of Ongoing Investigations Carried Over as of  
December 31, 2008**

<b>YEAR</b>	<b>1-3 Months</b>	<b>4-7 Months</b>	<b>8-12 Months</b>	<b>13-18 Months</b>	<b>19-23 Months</b>	<b>24+ Months</b>	<b>Total</b>
<b>2002</b>	0	0	0	0	0	1	1
<b>2004</b>	0	0	0	0	0	1	1
<b>2005</b>	0	0	0	0	0	8	8
<b>2006</b>	0	0	0	0	0	27	27
<b>2007</b>	0	0	2	21	7	3	33
<b>2008</b>	35	28	20	0	0	0	83
<b>Total</b>	<b>35</b>	<b>28</b>	<b>22</b>	<b>21</b>	<b>7</b>	<b>40</b>	<b>153</b>

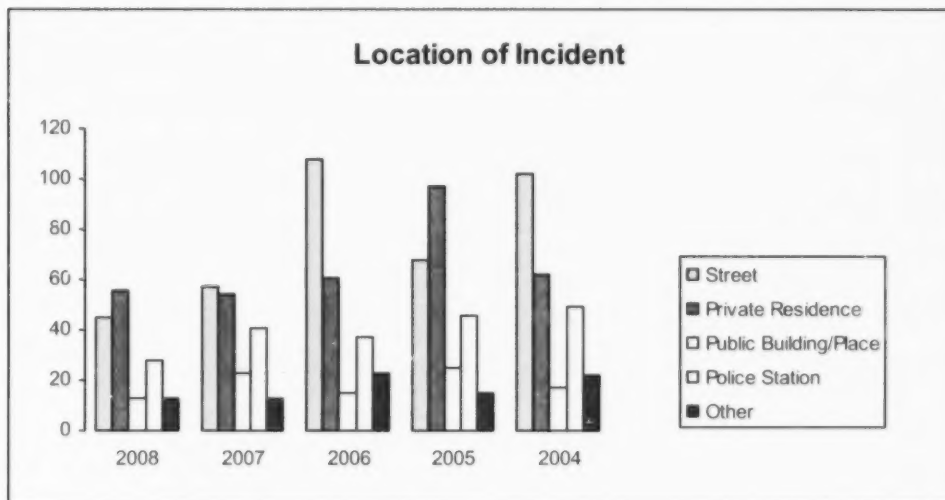
**Table 15: Files Concluded in 2008 by Year of Origin**

<b>Year</b>	<b>Number of Files</b>	<b>Average Time to Close Investigation</b>
<b>2003</b>	2	26 months
<b>2004</b>	19	45 months
<b>2005</b>	19	30 months
<b>2006</b>	27	16 months
<b>2007</b>	75	8 months
<b>2008</b>	72	4 months
<b>Total</b>	<b>214</b>	<b>13 months</b>

<b>Table 16: Length of Time to Complete Investigations</b>	<b>2008 (n=214)</b>	<b>2007 (n=208)</b>	<b>2006 (n=324)</b>	<b>2005 (n=217)</b>	<b>2004 (n=216)</b>
<b>1-3 Months</b>	43	54	74	42	35
<b>4-7 Months</b>	67	49	42	42	42
<b>8-12 Months</b>	39	51	75	46	47
<b>13-18 Months</b>	15	22	57	34	39
<b>19-23 Months</b>	11	10	23	22	26
<b>24+ Months</b>	39	22	53	31	27
<b>Average</b>	<b>13 months</b>	<b>11 Months</b>	<b>13 Months</b>	<b>12 Months</b>	<b>13 Months</b>



<b>Table 17: Location of Incident</b>	<b>2008 (n=155)</b>	<b>2007 (n=188)</b>	<b>2006 (n=244)</b>	<b>2005 (n=251)</b>	<b>2004 (n=252)</b>
Street	45	57	108	68	102
Private residence	56	54	61	97	62
Public building/place	13	23	15	25	17
Police station	28	41	37	46	49
Other	13	13	23	15	22



<b>Table 18: Complainant Demographics</b>	<b>2008 (n=155)</b>	<b>2007 (n=188)</b>	<b>2006 (n=244)</b>	<b>2005 (n=251)</b>	<b>2004 (n=252)</b>
<b>Gender</b>					
<b>Male</b>	111 (72%)	140 (74%)	164 (67%)	171 (68%)	181 (72%)
<b>Female</b>	44 (28%)	48 (26%)	80 (33%)	80 (32%)	71 (28%)
<b>Age</b>					
<b>Over 50</b>	21 (14%)	35 (19%)	25 (10%)	30 (12%)	13 (5%)
<b>40 - 49</b>	26 (17%)	32 (17%)	40 (16%)	48 (19%)	35 (14%)
<b>30 - 39</b>	38 (25%)	36 (19%)	40 (16%)	48 (19%)	44 (17%)
<b>18 - 29</b>	47 (30%)	34 (18%)	73 (30%)	56 (22%)	67 (27%)
<b>Under 18</b>	16 (10%)	22 (12%)	32 (13%)	39 (16%)	57 (23%)
<b>Birth date unknown</b>	7 (4%)	29 (15%)	34 (14%)	30 (12%)	36 (14%)